IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIFTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE Mr.JUSTICE K.C. BHANU

WRIT PETITION No.12184 of 2004

Between:

M. Rajesham, Driver, E. 302319, S/o Rama Swamy
APSRTC, Mancherial Bus Depot, Adilabad District.

..... PETITIONER

AND

1.The Regional Manager, APSRTC, Adilabad region, Adilabad Adilabad

District.
2.The Depot Manager, APSRTC, Mancherial Bus Depot, Mancherial
Adilabad District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction or Writ more particularly one in the nature of writ of Mandamus declaring the action of the 2nd respondent in issuing the proceedings No. 01/2(15)/97-MNCL dt. 04-05-1998 as illegal, arbitrary and unjust and Consequently set aside the proceedings No. 01/2 (15)/97-MNCL dt.04-05-1998 issued by the 2nd respondent

Counsel for the Petitioner: MR.G.RAVI MOHAN

Counsel for the Respondents: SMT.G.JYOTHI KIRAN, S.C. for APSRTC

The Court made the following :

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ORAL ORDER:

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With regard to an accident that took place while the petitioner was driving the bus, a charge sheet dated 14-11-1997 was issued calling for his explanation. The petitioner gave explanation denying the charges. Thereafter, without conducting any enquiry, the disciplinary authority imposed the punishment of deferment of one increment with cumulative effect. The petitioner preferred an appeal before the second respondent, but the second respondent seems to have not passed any orders. Questioning the penalty imposed by the first respondent, the present writ petition is filed.

Learned counsel for the petitioner, Mr.G.Ravi Mohan contended that imposition of punishment of stoppage of one increment with cumulative effect is a major penalty which cannot be imposed unless preceded by a regular enquiry. Therefore, he prays that a direction may be issued to reduce the punishment in view of the fact that the accident had taken place in the year 1997.

Learned Standing Counsel for the respondent Corporation contended that after issuing show cause notice to the petitioner and calling for his explanation, major punishment has been imposed and there are no grounds to interfere with the impugned proceedings.

The accident took place on 3-8-1997 while the petitioner was driving the bus from Bhadrachalam to Mancherial. A charge sheet dated 14-11-1997 was issued to the petitioner calling for his explanation. The petitioner gave explanation denying the charges levelled against him. Without conducting any enquiry, the respondent Corporation imposed the punishment of stoppage of one increment with cumulative effect. It is not in dispute that stoppage of one increment with cumulative effect is a major penalty which cannot be imposed unless preceded by a departmental enquiry.

Admittedly, in this case, no departmental enquiry has been conducted. The accident took place in the year 1997. Though it is a case where the matter can be remitted back to the respondent Corporation for taking appropriate decision, but considering the fact that the accident had taken place in the year 1997 and that a major penalty cannot be imposed without conducting departmental enquiry, the penalty imposed on the petitioner can be modified.

In the result, the penalty imposed on the petitioner is modified from that of stoppage of one increment with cumulative effect to deferment of one increment without cumulative effect.

The writ petition is accordingly disposed of at the admission stage.

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15th July 2004.

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To

1.The Regional Manager, APSRTC, Adilabad region, Adilabad Adilabad District.

2.The Depot Manager, APSRTC, Mancherial Bus Depot, Mancherial Adilabad District.

3. Two C.D. copies.